Group IV.) Claims 24-25 drawn to a method of relieving symptoms caused by estrogen deficiency;

Group V.) Claims 26-27 drawn to a method of screening; and

Group VI.) Claims 28-49, 57-58 drawn to a method of screening.

The non-final office action further required an election of species to which the claims shall be restricted if no generic claim is finally held to be allowable, and identification of claims readable on the elected species. *See* Paper No. 10, pages 2-3.

Applicants respectfully disagree and traverse the restriction and election of species requirements. However, in order to be fully responsive, Applicants provisionally elect the subject matter of Group VI, represented by claims 28-49 and 57-58. Applicants respectfully point out that the subject matter of Group VI is broadly directed to methods of relieving or curing symptoms or diseases caused by estrogen deficiency where the patient has or is at risk of having breast cancer, comprising administering composition(s) having estrogen-like effects without provoking or enhancing breast cancer, and not to methods of screening as identified in the non-final office action. Applicants further provisionally elect the species corresponding to the method of treatment, wherein the composition is a composition comprising one or more chemical compounds included in *Cimicifuga Racemosa* extract, or derivatives thereof, represented by pending Claims 28-49, 57 and 58.

Applicants' traversal is supported by a review of the Written Opinion for International Application Number PCT/DK00/00406. The instant application was filed as a National Stage Application of International Application Number PCT/DK00/00406 under 35 U.S.C. § 371. The Written Opinion of International Application Number PCT/DK00/00406 is silent to any assertions of lack of unity, and therefore, Applicants submit, supports Applicants' position that there is unity of invention amongst all the pending claims.

When the USPTO considers International Patent Applications during the national stage as a Designated or Elected Office under 35 U.S.C. § 371, PCT Rules 13.1 and 13.2 are followed when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35 U.S.C. § 111. *See* 37 C.F.R. § 1.475 and M.P.E.P. § 1850. Under PCT Rule 13.2, Unity of Invention shall be fulfilled between a group of claimed inventions "when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features." *See* Patent Cooperation Treaty, Rule 13. This is supported by the holding of *Caterpillar Tractor*

Company v. Commissioner of Patents and Trademarks, 590 USPQ 231 (DC, E.D. VA 1986) wherein the court held that a U.S. national stage of a PCT application containing claims directed to a process and apparatus for its practice must be examined in the same application since they satisfy the requirement of unity of invention of the PCT Rules.

Applicants assert that the same or corresponding special technical feature existing between all of the pending claims is the use of an estrogen-like compound without stimulating breast cancer cells. Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement, and examination on the merits of all claims in this application.

CONCLUSION

Applicants believe that consideration of the above remarks has placed this application in condition for allowance. Early notification of a favorable consideration and allowability of all claims are respectfully requested.

Respectfully submitted,

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